

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

ALBERTA WILLIAMS,

Plaintiff,

Case No.
Hon.:

v.

THE UNITED STATES,

Defendant.

THOMAS P. MURRAY, JR. (P43773)
THE SAM BERNSTEIN LAW FIRM, PLLC
Attorneys for Plaintiff
1787 Grand Ridge Court, Suite 204
Grand Rapids, MI 49525
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There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

COMPLAINT

NOW COMES the Plaintiff, ALBERTA WILLIAMS, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC by THOMAS P. MURRAY, JR. and for her cause of action against the above-named Defendant, THE UNITED STATES, states unto this Honorable Court as follows:

GENERAL ALLEGATIONS AND JURISDICTIONAL BASIS

1. Plaintiff, ALBERTA WILLIAMS, upon information and belief, is a resident of the County of Muskegon , State of Michigan.

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2. That at all times relevant Agent/Employee of Defendant, GEORGE SMITH was in the course and scope of his employment with the United States Post Office. The United States Post Office is a subdivision of Defendant THE UNITED STATES.

3. That Plaintiff's claims against Defendant THE UNITED STATES arise under the Federal Tort Claims Act and the exclusive jurisdiction of this Court.

4. That a Form 95 has been filed with the United States Post office and no resolution has been made within six months of its filing.

5. That all the acts, transactions and occurrences arose in the County of Muskegon, State of Michigan.

6. That both venue and jurisdiction are properly brought before this court.

7. Plaintiff's claims including future damages and the amount in controversy in this litigation exceed the sum of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest, costs and attorney fees.

COUNT I

NEGLIGENCE

8. Plaintiff adopts and incorporates by reference each and every allegation contained in the General Allegations and Jurisdictional Basis of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

9. That on or about June 18, 2022, your Plaintiff ALBERTA WILLIAMS was the operator of a 2016 Chevrolet Malibu bearing the Michigan registration 2K5472 and proceeding in a careful and prudent manner while traveling westbound on Hackley Avenue near its intersection with Jarman Street. At this same time and place, Agent/Employee of Defendant GEORGE SMITH was the operator of a 1992 mail truck motor vehicle bearing the Michigan

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registration 2216757 and proceeding southbound on Jarman Street near its intersection with Hackley Avenue in front of your Plaintiff. He then drove in a careless, reckless, and negligent manner when he disregarded a stop sign and pulled into Hackley Avenue thereby crashing into ALBERTA WILLIAM'S Chevrolet Malibu as well as serious and permanent injuries to your Plaintiff, as herein alleged.

10. That it then and there became and was the duty of Agent/Employee of Defendant, GEORGE SMITH, to drive said motor vehicle with due care and caution in accordance with the statutes of the State of Michigan and the rules of the common law applicable to the operation of motor vehicles, but that, notwithstanding said duties, your Defendant's Agent/Employee did breach and violate the same in one or more of the following particulars:

- a. Failing to abide by a stop sign;
- b. Driving said motor vehicle on the highway at a speed greater than would permit him to bring it to a stop within the assured clear distance ahead, contrary to the provisions of MCL 257.627;
- c. Driving at an excessive and unlawful speed;
- d. Failing to drive said motor vehicle at a careful and prudent speed, not greater than was reasonable and proper, having due regard to the traffic, surface and width of the highway and other conditions then and there existing;
- e. Failing to keep a proper or any lookout for traffic when Defendant knew or should have known that such failure would endanger the life and lives of other persons along and upon said highway;
- f. Failing to have said automobile equipped with brakes adequate to control its movement and stop and hold it as required by MCL 257.705 or in the alternative, failing to use said equipment;
- g. In failing to keep said vehicle under control at all

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times relevant to this matter;

- h. In failing to properly yield to the right of way of vehicles already proceeding on the road when exiting the driveway, in violation of MCL 257.652;
- i. In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to your Plaintiff as hereinafter alleged; and
- j. In other manners as yet unknown to Plaintiff but which will become known during the course of discovery.

11. That as a direct and proximate result of the negligent acts and/or omissions on the part of Agent/Employee of Defendant, GEORGE SMITH, your Plaintiff, ALBERTA WILLIAMS was caused and will be caused in the future to suffer with severe, grievous and permanent personal injuries, disability, damages, serious impairment of bodily functions and permanent, serious disfigurement, the full extent and character of which are currently unknown but, which may include but, are not necessarily limited to the following:

- a. Injuries to her head, neck and back causing intractable headaches and injection therapy;
- b. Concussion;
- c. Residual sequelae;
- d. Any and all other manners of internal and external injuries;
- e. Pain, especially on neck and back, suffering, discomfort, disability, and extreme physical and emotional suffering;
- f. Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;
- g. Loss of the natural enjoyments of life;

- h. Possible aggravation of pre-existing conditions; and
- i. Damages in excess of those provided under the Plaintiff's Michigan No-Fault Act policy limits including for costs of medical care and treatment and possible excess wage loss.
- j. Costs for medical care, treatment, attendant care lost wages, rehabilitation and recovery including but not limited to future benefits afforded under the Michigan No-Fault Act in excess of Plaintiff's coverage for same.
- k. Possible reimbursement to Plaintiff's health insurance and/or Medicare/Medicaid health plan for expenditures related to this occurrence.

12. That as a direct and proximate result of Agent/Employee of Defendant's negligence and unlawful conduct, your Plaintiff has been required to undergo various and certain medical procedures and will be required to undergo like treatment in the future.

COUNT II

LIABILITY UNDER THE FEDERAL TORT CLAIMS ACT

RESPONDEAT SUPERIOR

13. Plaintiff hereby adopts and incorporates by reference each and every allegation contained in the General Allegations and Jurisdictional Basis and Count I of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

14. That the Defendant, THE UNITED STATES, is liable for the negligent acts of Agent/Employee of Defendant GEORGE SMITH in the aforementioned negligent operation of defendant's motor vehicle he was operating pursuant to the Federal Tort Claims Act.

15. Further Defendant THE UNITED STATES is vicariously liable for Agent/Employee of Defendant GEORGE SMITH's actions under the doctrine of respondeat superior, with said liability imposed for the actions/inactions of its employee GEORGE SMITH during the course of his employment.

16. All required administrative remedies have been exhausted prior to the filing of this lawsuit.

WHEREFORE, Plaintiff, ALBERTA WILLIAMS, prays that this Honorable Court award her damages against Defendant, THE UNITED STATES, in whatever amount in excess of, Seventy-Five Thousand (\$75,000.00) Dollars to which she is found to be entitled to receive, together with costs, interest, and attorney fees.

Respectfully submitted,

THE SAM BERNSTEIN LAW FIRM

/s/ Thomas P. Murray, Jr.
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Dated: July 26, 2023

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